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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,759	09/10/2003	Mark Dillon	3049-0133P	3926

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BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER
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JUNKER, JONATHAN T

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/658,759

Applicant(s)

DILLON ET AL.

Examiner

Jonathan T. Junker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11-19 and 21 is/are rejected.
- 7) ☒ Claim(s) 10 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☒ Other: Supplied Figure.

*Benji Velt* 9/12/06  
*2nd KILLER*  
*PRIME/11/06*  
*AS69*

## **DETAILED ACTION**

Claims 1-21 are pending and are examined below.

### ***Claim Objections***

Claims 1 and 11 are objected to because the claims cite the subcombination "a bottom pad assembly" but in claims 5 and 15 the combination between "a bottom pad assembly" and "a leveler" is claimed. If the combination is intended then claims 1 and 11 must be rewritten to positively sight the combination. The claims will be examined as a combination.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-9 and 11-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Layne, US Patent 4,349,992.**

Regarding claim 1, Layne discloses a pad assembly (fig 4) for sealing a bottom opening formed when a vehicle is parked adjacent to a loading dock comprising a first mounting bracket (22 fig 1) adapted to be positioned adjacent to a first end of a dock opening; a second mounting bracket (22 fig 1) adapted to be positioned adjacent to

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distance relative to the first end; a bottom pad extending between the (10 fig 1) first mounting bracket and the second mounting bracket for engaging a rear portion of a vehicle parked adjacent to a loading dock; and a clearance space (25 fig 5) formed between the bottom pad and a loading dock (fig 1), said clearance space is adapted to selectively receive a portion of a leveler for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler is not able to be lowered into the vehicle.

It is noted that the leveler is not positively recited in the claim; therefore it does not need to be disclosed in the prior art to meet the limitations of the claim.

Regarding claim 2, Layne discloses a pad assembly according to claim 1, wherein said first mounting bracket includes a first flange (22 fig 5, the L-shaped bracket includes a top flange) adapted to be mounted on a loading dock and said second mounting bracket includes a second flange (22 fig 5, the L-shaped bracket includes a top flange, only one side is shown) adapted to be mounted on a loading dock, said bottom pad extending between said first mounting bracket and said second mounting bracket (fig 1).

Regarding claim 3, Layne discloses a pad assembly according to claim 1, and further including a first bumper (11 fig 1) mounted adjacent to said first mounting bracket (13 fig 1) and a second bumper (11 fig 1) mounted adjacent to said second mounting bracket (13 fig 1), said bottom pad extending outwardly from said first and

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second bumpers for providing a resilient engagement with a vehicle parked adjacent to a loading dock for sealing a space disposed therebetween.

Regarding claim 4, Layne discloses a pad assembly according to claim 1, and further including a bottom draft plug (27 fig 5) movably positioned within said clearance space for normally sealing a lower portion of said clearance space and for selectively being displaced from said lower portion for removing debris disposed within said clearance space.

It is noted that the bolt 27 from figure 5 is sealing the clearance space 25, larger debris, like stones, would not be able to pass through the clearance space without the removal of the bolt.

Regarding claim 5, Layne discloses a pad assembly according to claim 1, wherein the leveler (20 fig 2) includes a hinged section (26 fig 2) disposed adjacent to a distal end of the leveler wherein the hinged section is accommodated within said clearance space when the vehicle is full and the hinged section of the leveler is not able to be lowered into the vehicle.

Regarding claim 6, Layne discloses a pad assembly according to claim 1, wherein said bottom pad is vertically adjustable (10 fig 2) relative to said first mounting bracket and said second mounting bracket. As the truck backs into the pad assembly

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the pad will be displaced as seen in figure 2, the displacement is in the in the vertical as well as the horizontal directions.

Regarding claim 7, Layne discloses a pad assembly according to claim 6, and further including a bottom pad pan (16 fig 5) for supporting said bottom pad, said bottom pad pan extending between said first mounting bracket and said second mounting bracket and being mounted relative thereto for selective vertical movement for manually positioning said bottom pad at a proper elevation relative to a vehicle parked at a loading dock.

Regarding claim 8, Layne discloses a pad assembly according to claim 7, wherein said bottom pad pan includes a top angle (16 fig 5) and a bottom angle (16 fig 5), said top angle is mounted relative to an upper portion of said bottom pad and said bottom angle is mounted relative to a lower portion of said bottom pad. The two L-shaped brackets (16 fig 5) form angles that are disposed at the top and bottom of the pad.

Regarding claim 9, Layne discloses a pad assembly according to claim 7, and further including a first flange member (14 fig 5) secured to a first end of said bottom pad pan (16 fig 5) and a second flange member (14 fig 5) secured to a second end of said bottom pad pan (16 fig 5), said first flange member being adapted to be mounted

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relative to said first mounting bracket and said second flange member being adapted to be mounted relative to said second mounting bracket.

Regarding claim 11, Layne discloses a pad assembly for sealing a bottom opening formed when a vehicle is parked adjacent to a loading dock comprising: a bottom pad adapted (10 fig 1) to be positioned to span an opening in a loading dock (fig 1) said bottom pad disposed relative to a floor surface of a loading dock for engaging a rear portion of a vehicle parked adjacent to a loading dock; and a clearance space (25 fig 5) formed between the bottom pad and a loading dock, said clearance space is adapted to selectively receive a portion of a leveler (20 fig 2) for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler is not able to be lowered into the vehicle.

It is noted that the leveler is not positively recited in the claim; therefore it does not need to be disclosed in the prior art to meet the limitations of the claim.

Regarding claim 12, Layne discloses a pad assembly according to claim 11, and further including a first mounting bracket (22 fig 5) having a first flange adapted to be mounted on a loading dock and a second mounting bracket (22 fig 1, discloses 2 mounting brackets) having a second flange adapted to be mounted on a loading dock, said bottom pad extending between said first mounting bracket and said second mounting bracket.

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Regarding claim 13, Layne discloses a pad assembly according to claim 12, and further including a first bumper (11 fig 1) mounted adjacent to said first mounting bracket (13 fig 1) and a second bumper (11 fig 1) mounted adjacent to said second mounting bracket (13 fig 1), said bottom pad extending outwardly from said first and second bumpers for providing a resilient engagement with a vehicle parked adjacent to a loading dock for sealing a space disposed therebetween.

Regarding claim 14, Layne discloses a pad assembly according to claim 11, and further including a bottom draft plug (21 fig 5) movably positioned within said clearance space for normally sealing a lower portion of said clearance space and for selectively being displaced from said lower portion for removing debris disposed within said clearance space.

Regarding claim 15, Layne discloses a pad assembly according to claim 11, wherein the leveler includes a hinged section (26 fig 2) disposed adjacent to a distal end of the leveler wherein the hinged section is accommodated within said clearance space (25 fig 2) when the vehicle is full and the hinged section of the leveler is not able to be lowered into the vehicle.

Regarding claim 16, Layne discloses a pad assembly according to claim 12, wherein said bottom pad is vertically adjustable (10 fig 2) relative to said first mounting



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bracket and said second mounting bracket. As the truck backs into the pad assembly the pad will be compressed and displace in the vertical direction.

Regarding claim 17, Layne discloses a pad assembly according to claim 16, and further including a bottom pad pan (16 fig 5) for supporting said bottom pad, said bottom pad pan extending between said first mounting bracket and said second mounting bracket and being mounted relative thereto for selective vertical movement for manually positioning said bottom pad at a proper elevation relative to a vehicle parked at a loading dock.

Regarding claim 18, Layne discloses a pad assembly according to claim 17, wherein said bottom pad pan (16 fig 5) includes a top angle and a bottom angle, said top angle is mounted relative to an upper portion of said bottom pad and said bottom angle is mounted relative to a lower portion of said bottom pad. The two L-shaped brackets form angles that are disposed at the top and bottom of the pad

Regarding claim 19, Layne discloses a pad assembly according to claim 17, and further including a first flange member (14 fig 5) secured to a first end of said bottom pad pan (16 fig 5) and a second flange member (14 fig 5) secured to a second end of said bottom pad pan, said first flange member being adapted to be mounted relative to

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said first mounting bracket and said second flange member being adapted to be mounted relative to said second mounting bracket.

**Claims 11, 14 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Hahn et al. US Patent 5,442,825.**

Regarding claim 11, Hahn et al. discloses a pad assembly for sealing a bottom opening formed when a vehicle is parked adjacent to a loading dock comprising: a bottom pad adapted (Reference A; Supplied Figure) to be positioned to span an opening in a loading dock (fig 1) said bottom pad disposed relative to a floor surface of a loading dock for engaging a rear portion of a vehicle parked adjacent to a loading dock; and a clearance space (the space formed between the surfaces of 16 and 32 and just above 10 fig 1) formed between the bottom pad and a loading dock, said clearance space is adapted to selectively receive a portion of a leveler (37 fig 1) for facilitating the loading and unloading of a vehicle when the vehicle is full and the leveler is not able to be lowered into the vehicle.

It is noted that the leveler is not positively recited in the claim; therefore it does not need to be disclosed in the prior art to meet the limitations of the claim.

Regarding claim 14, Hahn et al. discloses a pad assembly according to claim 11, and further including a bottom draft plug (10 fig 1) movably positioned within said clearance space for normally sealing a lower portion of said clearance space and for

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selectively being displaced from said lower portion for removing debris disposed within said clearance space.

Regarding claim 21, Hahn et al. discloses a pad assembly according to claim 14, wherein said bottom draft plug (10 fig 1) may be selectively pushed down out of said clearance space by at least one of a lower leveler lip (bottom edge of 32 fig 1) and a manual tool to allow debris disposed within said clearance space to drop out.

### ***Claim Objections***

Claims 10 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan T. Junker whose telephone number is (571)272-4020. The examiner can normally be reached on M-F 8:30-5.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Naoko Slack can be reached on (571) 272-6848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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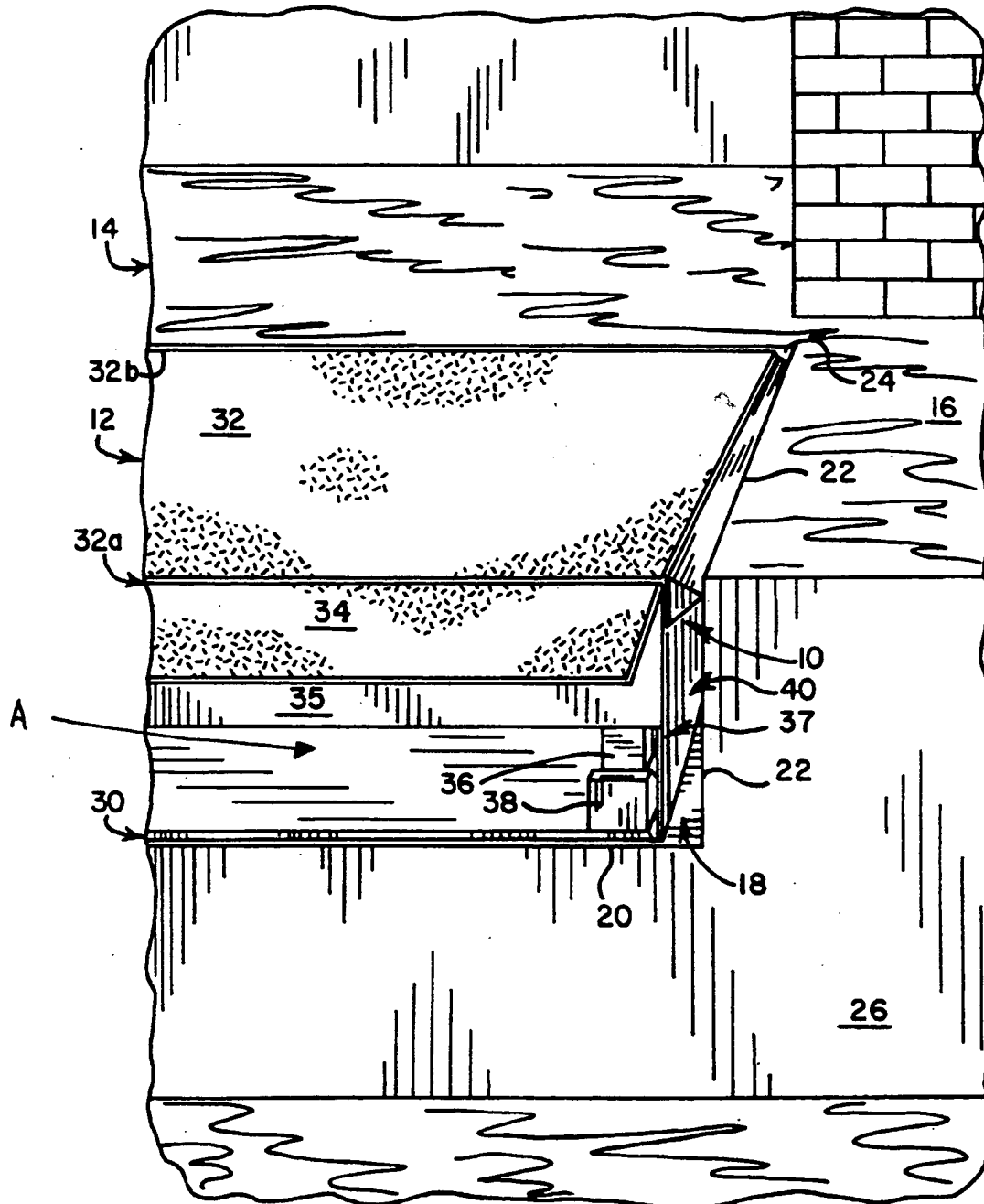


FIG. 1